



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,002	12/14/2006	Bruce E. Cohan	COHA0104PUSA	8979
22045	7590	11/25/2008	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			JONES, JAMES	
			ART UNIT	PAPER NUMBER
			2873	
			MAIL DATE	DELIVERY MODE
			11/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,002	Applicant(s) COHAN ET AL.	
	Examiner JAMES C. JONES	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11,14,17-20 and 22-27 is/are rejected.
- 7) ☐ Claim(s) 3, 12, 13 15, 16, and 21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/21/2007 & 1/17/2008</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 12/21/2007 and 1/17/2008 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 7-11, 14, 17-20, and 22-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Luce (20040002640) hereafter Luce.

Regarding claims 1, 10, and 20 Luce discloses an apparatus for the self-measurement of intraocular pressure by a user, the apparatus comprising: a housing (fig. 1); a tonometer disposed within the housing and having a tonometer tip (fig. 1, 9, par. [0048] "10" or "70" as the "tonometer" "18" or "80" as the "tip"); an adjustment mechanism in communication with the tonometer for positioning the tonometer tip in contact with a test eye of the user (fig. 1, 9, par. [0048]-[0049] "12" or "72" as the "adjustment mechanism"); an illuminator mounted within the housing adjacent the tonometer tip (fig. 2 "60" as the "illuminator"); a receiver aligned with the tonometer tip

Art Unit: 2873

for receiving an applanation pattern created by contact of the tonometer tip with the test eye (fig. 2, "58" as the receiver"); and a display in communication with the receiver for displaying the applanation pattern to an observing eye of the user (fig. 1, par. [0010]-[0011] [0033] "20" as the "display"), wherein the intraocular pressure of the test eye is determined from a force applied by the tonometer tip upon observation of a selected applanation pattern by the observing eye (abstract par. [0010]-[011]).

Regarding claims 2, 11, and 22 Luce discloses the apparatus according to claim 1, wherein the receiver includes a video camera, and the display includes at least one video monitor (fig. 1 "20" as the "monitor").

Regarding claim 7, Luce discloses the apparatus according to claim 1, wherein the housing is arranged to be hand-held and includes first and second ocular portions, wherein the tonometer tip and receiver are disposed within the first ocular portion, and the display is disposed within the second ocular portion (fig. 1 "18" as the "first ocular portion" and the recess portion that display "20" sits in as the "second ocular portion").

Regarding claims 8, 18, and 26 Luce discloses the apparatus according to claim 1, further comprising a video recorder in communication with the receiver (fig. 2 "54" as the "recorder") .

Regarding claims 9, 19, and 27, Luce discloses the apparatus according to claim 1, wherein the selected applanation pattern is an applanation endpoint pattern (par. [0033]).

Regarding claim 14, Luce discloses the apparatus according to claim 10, wherein the tonometer includes a force applicator for actuating movement of the tonometer tip to

Art Unit: 2873

apply a force to the test eye (par. [0048]-[0049] "74" as the "force applicator"), a strain gauge in communication with the force applicator for sensing an applied force (par. [0048]-[0049] "82" as the "strain gauge"), and a microprocessor in communication with the strain gauge for controlling the applied force and determining the intraocular pressure from the applied force (par. [0048]-[0049] "72" as the "microprocessor").

Regarding claim 17, Luce discloses the apparatus according to claim 10, further comprising an LCD display for displaying the intraocular pressure reading (fig. 1 "20" as the "LCD").

Regarding claim 23, Luce discloses the method according to claim 20, further comprising instilling dye and anesthetic substances in the test eye (par. [0003]).

Regarding claim 24, Luce discloses the method according to claim 20, further comprising viewing the applanation pattern through corrective lenses (fig. 1, Note: viewing the applanation pattern through corrective lenses will be inherent if the observer is wearing glasses).

Regarding claim 25, Luce discloses the method according to claim 20, further comprising rotating the housing 180.degree. about its longitudinal axis to obtain a measurement of intraocular pressure for another test eye (fig. 1 note: since the intraocular pressure device is hand held it can be rotated 180 degrees and it will still be operational to take measurements of the intraocular pressure).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2873

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luce (2004002640) hereafter Luce in view of Davidson (6981946) hereafter Davidson.

Regarding claims 4-6, Luce discloses as set forth above but does not specifically disclose a base, a guide plate movably positionable with respect to the base, and a support extending upwardly from the guide plate, the support having the tonometer, receiver, and display mounted thereon; a chin-forehead rest attached to the base; and a pair of lens holders mounted within the housing and arranged to receive corrective lenses therein. Davidson teaches that in an intraocular pressure device having a tonometer and an illuminator that it is desirable to have a base (fig. 1, 2 the portion of the device that contacts table "16" as the "base"), a guide plate movably positionable with respect to the base (fig. 2, "14" as the "guide plate") and a support extending upwardly from the guide plate (fig. 2), the support having the tonometer (fig. 2 "30" as the "tonometer"), receiver, and display mounted thereon (fig. 2, 8A "20" as the "receiver" "46" as the "display"); a chin-forehead rest attached to the base (fig. 2); and a pair of lens holders mounted within the housing and arranged to receive corrective lenses therein (fig. 2 "21" as the "lens holder") for the purpose measuring intraocular pressure of a persons eye without the need for complex mechanical calibrations. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have included a base, a guide plate movably positionable with respect to the base, and a support extending upwardly from the guide

Art Unit: 2873

plate, the support having the tonometer, receiver, and display mounted thereon; a chin-forehead rest attached to the base; and a pair of lens holders mounted within the housing and arranged to receive corrective lenses therein in the intraocular pressure device of Luce as modified by Davidson since Davidson teaches that in an intraocular pressure device having a tonometer and an illuminator that it is desirable to have a base, a guide plate movably positionable with respect to the base and a support extending upwardly from the guide plate, the support having the tonometer, receiver, and display mounted thereon; a chin-forehead rest attached to the base; and a pair of lens holders mounted within the housing and arranged to receive corrective lenses therein for the purpose measuring intraocular pressure of a persons eye without the need for complex mechanical calibrations.

Allowable Subject Matter

Claims 3, 12, 13, 15, 16, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: with respect to the allowable claims, none of the prior art either alone or in combination disclose or teach of the claimed combination of limitations to warrant a rejection under 35 USC 102 or 103. Specifically, in reference to claims 3 and 12 (and its dependent), none of the prior art either alone or in combination disclose or teach of the claimed intraocular pressure apparatus specifically including, as the distinguishing features in combination with the other limitations the claimed "wherein the receiver

Art Unit: 2873

includes a beam splitting mirror, and the display includes a display mirror aligned with the beam splitting mirror”.

Regarding claim 15, none of the prior art either alone or in combination disclose or teach of the claimed intraocular pressure apparatus specifically including, as the distinguishing features in combination with the other limitations the claimed “the housing is operable in a first orientation and in a second orientation rotated 180.degree. about its longitudinal axis, the housing including an aperture arranged to receive a member for activating one of the first and second adjustment mechanisms depending upon the orientation of the housing”.

Regarding claim 16, none of the prior art either alone or in combination disclose or teach of the claimed intraocular pressure apparatus specifically including, as the distinguishing features in combination with the other limitations the claimed “wherein the housing includes a second connector on both a top and bottom surface thereof arranged to mate with the first connector such that the housing is operable in a first orientation and in a second orientation rotated 180.degree. about its longitudinal axis”.

Regarding claim 21, none of the prior art either alone or in combination disclose or teach of the claimed method for using the intraocular pressure apparatus specifically, including as the distinguishing features in combination with the other limitations the claimed “applanation pattern is received by a beam splitting mirror and displayed using a display mirror”.

Conclusion

Art Unit: 2873

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES C. JONES whose telephone number is (571)270-1278. The examiner can normally be reached on Monday thru Friday, 8 a.m. to 5 p.m. est. time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James C. Jones/
Examiner, Art Unit 2873
11/20/2008

/Jordan M. Schwartz/
Primary Examiner, Art Unit 2873